

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

CODY SUMMERS,	:	
Plaintiff	:	
v.	:	CIVIL ACTION NO. 3:18-1246
BLAKELY BOROUGH,	:	(MANNION, D.J.)
OFFICER SEAN CHORBA,	:	(ARBUCKLE, M.J.)
OFFICER J. TODD and	:	
MDJ LAURA TURLIP,	:	
Defendants	:	
	:	

ORDER

Pending before the court is the report of Magistrate Judge William I. Arbuckle, (Doc. 34), which recommends that defendant Turlip's motion to dismiss, (Doc. 26), be granted and she be dismissed as a party in this case. The plaintiff has failed to file objections to Judge Arbuckle's report.¹ Upon review, Judge Arbuckle's report will be **ADOPTED**.

When no objections are filed to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ.

¹Subsequent to the filing of Judge Arbuckle's report, the plaintiff filed a packet of exhibits which he moves to be "admitted into evidence." (Doc. 35). However, the plaintiff has provided no substantive response to Judge Arbuckle's report.

P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The plaintiff's amended complaint is filed, in part, against defendant Turlip, who is a Lackawanna County Magisterial District Judge. The only allegations against defendant Turlip relate to her actions as the presiding judicial officer over the plaintiff's underlying state criminal proceedings. Specifically, the plaintiff alleges that defendant Turlip "continued the initial case with an improper purpose, to give [plaintiff] an excessive bail to generate revenue." (Doc. 25). The plaintiff does not allege any actions by defendant Turlip outside of her role as a magisterial district judge. As a result, defendant Turlip filed a motion to dismiss the plaintiff's amended complaint based upon judicial immunity. (Doc. 26). By order dated December 26, 2018, Judge Arbuckle instructed the plaintiff to respond to defendant Turlip's motion to dismiss no later than January 16, 2019. (Doc. 30). As of the date of Judge Arbuckle's report, the plaintiff had failed to respond to defendant Turlip's

motion to dismiss. On January 23, 2019, Judge Arbuckle issued the instant report, in which he recommends that defendant Turlip's motion to dismiss be granted on the basis of judicial immunity. (Doc. 34). The court has reviewed the record in this case and agrees with the sound reasoning which is the basis of Judge Arbuckle's recommendation. Therefore, the court will adopt the report of Judge Arbuckle recommending that defendant Turlip's motion to dismiss be granted and she be dismissed as a defendant in this case.²

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report of Judge Arbuckle, **(Doc. 34)**, is **ADOPTED** to the extent that it is recommended that defendant Turlip's motion to dismiss be granted on the basis of judicial immunity.
- (2) Defendant Turlip's motion to dismiss, **(Doc. 26)**, is **GRANTED**.
- (3) The plaintiff's claims against defendant Turlip are **DISMISSED IN THEIR ENTIRETY**.

²In the alternative, Judge Arbuckle recommends that dismissal of the plaintiff's complaint against defendant Turlip is proper under Fed.R.Civ.P. 41. Since the court finds that defendant Turlip is entitled to judicial immunity, the court need not address the alternative basis for Judge Arbuckle's report.

- (4) The instant action is **REMANDED** to Judge Arbuckle for consideration of the remaining motions to dismiss, as well as all further pre-trial proceedings.

s/Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: February 13, 2019

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